



NO PROTECTION AT THE BORDER

HUMAN RIGHTS

AT THE SOUTHERN FRONTIER:

BETWEEN NADOR AND MELILLA

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The Fernando Pombo Foundation promotes the legal profession's engagement with the rights of the underprivileged. To achieve this, it develops various lines of action.

With regards to this document, the Fernando Pombo Foundation has participated in financing a scholarship for a student of the Master's Degree for Admission to the Bar of the Comillas Pontifical University in his practical curriculum, to pay for his stay in Melilla during the months from September to December. This scholarship is part of the collaboration of the Fernando Pombo Foundation with legal training of the 21st century."

JESUIT MIGRANT SERVICE - SPAIN:

The Jesuit Migrant Service - Spain (SJM) belongs to the Jesuit Social Apostolate. It is devoted to the study of migration movements; to welcoming and training immigrants; and to the promotion of an inclusive, integrated and intercultural society. They work mainly in Madrid (Pueblos Unidos), Barcelona (Migra Studium), Valencia, Seville (Asociación Claver) y Bilbao (Centro Ellacuría); but their network extends to Burgos (Red Atalaya Intercultural), Tudela (Centro Lasa) and Valladolid (Red Íncola).

UNIVERSITY INSTITUTE OF STUDIES ON MIGRATION:

Created by the Comillas Pontifical University in 1994, the University Institute of Studies on Migration-IUEM is a centre specialised in research and teaching, in response to the complexity and to the political and social transformations produced by migrations.

ENGLISH TRANSLATION:

This English translation has been possible thanks to the PerMondo project: Free translation of website and documents for non-profit organisations. A project managed by Mondo Agit. Translators: Nina Clancy, Laura Humphries, Philip Hall, Gareth Harding. Proofreaders: Melissa Robl, Hannah Wallis, Lyndsey Bywater, Hannah Sibley, Kaleb Vick.

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1_INTRODUCTION

For many years, Ceuta and Melilla have been the gate to Europe on the African continent: the Western Mediterranean route. An important, mixed flow of people enter through them, mainly sub-Saharan and Syrians. The number of entries has fluctuated over the years, as well as the media attention: exclusively focused on the sub-Saharan until 2014. Fences are the symbol of this border, fundamentally used by sub-Saharan people. The media coverage of the fences and other points of access to Europe (central and eastern Mediterranean routes) has not been proportional to the numerical importance of the flows, much lower than those who accessed Europe through central and eastern Mediterranean routes. Only in August 2015 did media attention turn to the Syrian refugee population in the Eastern Mediterranean route, leaving the Spanish southern border in the shadows.

The SJM-Spain continues to focus its attention on the borders of Ceuta and Melilla, in collaboration with the JRS-Europe. Reports such as *Lives in transition*¹ and *I don't know where to go*² explain in detail the living conditions of the sub-Saharan people in Algeria and Morocco. *Lives at the Southern Border*³ and *Por un Estado de derecho... también en la Frontera Sur*⁴ focus on analysing the situation in Nador and Melilla. These reports focus looked especially in sub-Saharan population, while this one tries to tackle the situation and particular problems of sub-Saharan and Syrians: whether they will seek international protection or not.

The border control policies, as designed and implemented, impact on human rights of migrants and refugees. In addition to raising and increasing the border fences, in the last few years the so called “push backs” have been legalised⁵, through the concept of border rejection. On the other hand, two asylum offices have been opened at the border.

This report consider the difficulties faced by persons while staying in Nador, when they cross the border using different means, and during their stay in Me-

1 GALEA, A. (Jesuit Refugee Service-Europe). *Lives in transition*. 2012. Available in:

<http://www.sjme.org/sjme/item/749-lives-in-transition-experiences-of-migrants-living-in-morocco-and-algeria>

2 KESSLER, S. (Jesuit Refugee Service-Europe). *I don't know where to go*. 2011. Available in: <http://www.sjme.org/sjme/item/745-cuaderno-irs-no-se-donde-ir>

3 JESUIT MIGRANT SERVICE - SPAIN AND JESUIT REFUGEE SERVICE - EUROPE. *Lives in the Southern Border*. 2014. Available in: <http://www.sjme.org/sjme/item/773-lives-at-the-southern-borders>

4 BUADES, J. (Jesuit Migrant Service - Spain). *Por un Estado de Derecho también en la Frontera Sur*. SJM-España: 2015. Available in: <http://www.sjme.org/sjme/item/787-por-un-estado-de-derecho-tambien-en-la-frontera-sur>

5 It seems that the “push back” practice is going to continue, even if it constitutes a violation of national, European and International rights of human rights and international protection, as stated in: V.V.A.A. “*Rechazos en frontera : ¿frontera sin derechos?*”. Madrid: Universidad Complutense 2015. Available in: <http://eprints.ucm.es/29379/>

lilla until they are transferred to the Peninsula. Those difficulties are important as they are examples of migrants' human rights violations by individuals, organized groups and the agents who implement border control policies and combat illegal immigration.

We would like to thank all the people and institutions who have collaborated on this project. Firstly, to the hundreds of Syrian and sub-Saharan people who were interviewed over the past three months, overcoming their fear and remembering their hard experiences. Secondly, to the civil society organisations which accompany and look after them, in Nador and Melilla, to UNHCR-Spain and to the Public Administration who helped with the interviews.

A special acknowledgment for the hospitality and reception to the *Religiosas de María Inmaculada* in Melilla during the three months conducting and documenting interviews. Similarly, we wish to thank the Fernando Pombo Foundation for its support for the investigation's production.

We dedicate this publication, as SJM and JRS have done previously, to the memory of the thousands of people who lost their lives trying to cross the European borders.

2_ BEFORE ARRIVING TO SPAIN. SURVIVING ON THE OTHER SIDE OF THE BORDER

Nador is a compulsory crossing point for Syrians and sub-Saharan people trying to access Europe through the Spanish city of Melilla, placed in Northern Africa.

Nador is far from Melilla only 20 minutes by car. Despite the proximity, there is a huge inequality between both cities and between the two countries. Nador is a poor and abandoned Moroccan province, which inevitably affect the stay, even if it is short lasting, of anyone who tries to reach Spain via Nador.

Morocco has signed international treaties such as the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* or the *Convention relating to the Status of Refugees and its Protocol*. It has assumed a number human rights obligations: however, in practice, recognizing and guaranteeing these rights is a different matter. Police repression, rights violations, abuse in Nador, etc., are cruel, especially among the sub-Saharan population.

Organizations defending human rights are heavily pressed by the Moroccan government and there are few social organizations of this kind in Nador, despite the great need. The main ones are: The Diocesan Delegation of Migration of the Tangier Archbishopric (medical and emergency attention for sub-Saharan people), ASTICUDE (local awareness, mediation and socio-economic integration of migrants) and AMDH (denunciation of human rights violation).

2.1 SETTLEMENTS IN THE WOODS

The sub-Saharan people survive in settlements in the forests on the outskirts of Nador, subject to repression and mistreatment.

ON MOUNT GURUGU

This is the closest mountain to Melilla. African people with no economic resources camp on Mount Gurugu waiting until they can try to jump the fence. They use to group themselves depending on their nationalities.

In February 2015, once finished the regularization of migrants which was developed during 2014⁶, security forces dismantled the settlements on Mount Gurugu. According to Nador organisations, this was the largest operation of this kind, as 1,200 people were living on the mountain. They were all detained and conducted to detention centres, under no procedures or guarantees, being then dispersed and abandoned in different cities in the South of Morocco. Since then, sub-Saharan people are living amongst the numerous settlements in the Nador province and some of them have even choose to take the Libya route, which is much more dangerous.

Abubácar⁷ (Mauritania, 23 years old):

“In Gurugu life is very difficult: you don't eat, you don't pray in the morning, you don't go to the city because it is dangerous. They attack us, they steal our money, mobile phones...I have been robbed many times. During the day, I didn't work and I was not able to do anything, I used to sleep, at night we used to prepare food and eat. In February the Moroccan police went to Gurugu, they took everyone and burnt everything. I was not there that day. But when I returned I saw that no-one was there, none of my friends. A friend died in the police attack, he was seriously wounded.”

Musa (Guinea, 26 years old), spent three years in Morocco until he succeeded to cross the border:

“I was there for a while. I was the cook of my camp (...)There are many Guinean camps in Gurugu. The police (2015) took us and carried us all to a centre in Meknes (there they gave us food and clothing). It was when Gurugu fin-

6 In 2014, Morocco developed a process to regularise irregular immigrants. There were more than 27,000 petitions from people from different countries: Senegal (6,600), Syria (5,250), Nigeria (2,380) and the Ivory Coast (2,281) were amongst the most important nationalities. Only 400 requests were submitted in Nador and around 123 sub-Saharan people and some Algerian were regularized. One drop in the ocean, taking into account the transit nature of the city.

7 All the names of the people quoted in this report are fictitious.

ished. But I returned to Nador. You have to hide in the train to arrive here and return to Gurugu. If you do not know Gurugu very well, it is a very dangerous place (...) The Police go there...”.



IN OTHER WOODS

According to the organisations working in Nador, there are usually between 1,500 and 2,000 sub-Saharanans waiting for the opportunity to cross the border via small boats or jumping the fence - many of them are minors-. They cannot stay in the city - nobody will rent them a flat- and they dwell in the settlements dispersed throughout the Nador province. They shelter under improvised awnings made of plastic, blankets and some branches. During winter it is impossible to protect yourself against the cold or the rain. Survival problems are common and serious diseases are abundant due to the deplorable living conditions and lack of hygiene.

Oliver (Ivory Coast, 20 years old):

“As we were not able to wash often, we were itchy. We only had dirty water to drink. I was sick, but nothing very serious, vomiting mostly. The worst part of the journey was Morocco and Algeria. Only God protects you.”

Also mental diseases are prevalent, linked to the stressful situation and continuous anxiety.

Pierre (Cameroon, 20 years old) still trapped in Nador, in the Jutia settlement:

“The worst part of the forest is living in fear. We are scared of the Police. There are women and children. Everything that we live through in the forest will be impossi-

ble to forget. This fear is the worst part of my stay in Morocco, but I don't lose hope. If I have survived the Tuareg, I can survive in the forest. I try to wake up happy."

Migrants are organised into groups by nationality or by language: Bolingo (English and French-speaking), Jeudi l'Ancien, Batuilla, Carrière (four or five settlements), Jutia, Sherif and Petit Gurugu (two or three settlements). Each camp has a boss who represents them and informs them about the chances to go into Europe.

The bosses don't usually cross the border. They earn large sums of money through the commissions for organising "trips" towards Europe. They act as intermediaries with the Moroccans who provide the "boats" for smuggling, or with the Europeans who want women for trafficking.

In each group there is usually some "snitch" who informs the Moroccan police about the entry attempts in exchange for being able to cross the border himself. There is a lot of distrust in the camps.

One worker with sub-Saharan migrants in Nador:

"There is always a boss. In some camps they have taken away all the mobiles and only the boss has one because there have been informants amongst them (snitches, moles) who inform the Police of the attempts to jump the fence in exchange for allowing them to pass. And they pass. The Police allow some to go to Melilla in exchange for tipping off about the attempts to jump the fence. There is an enormous police control which does not allow them even to get close to the fence."

The days in the camps passes with nothing to do, except remaining alert against possible raids or opportunities to cross the border. People in the forest live on tenterhooks. They are constantly waiting for raids from the Moroccan Auxiliary Forces (MAF), who detain them and return them to different border points of the country close to the desert, without any administrative procedure and without any legal guarantees.



They earn some money begging in the city centre, adults and children. It is normal to find a woman cooking for everyone and some of them going to the city to find some water, with large and very worn out plastic bottles.

The saddest and most worrying part is the presence of children. Many are born during the transit, others in Morocco. Many of them are teenagers. They are very anxious children, used to being moved around, as they have also suffered the assaults of the MAF. In spite of this, they are just children: playing with anything they find or with anyone who gives them some affection.

One worker with sub-Saharan migrants in Nador:

“They are children who do not smile, who grow up in the forest, afraid of the Police that will come and destroy everything in the middle of the night. The Police steal and hit everyone. They lose their childhood and those who spend time in the forest remain traumatised. We never leave a girl alone if her mother is going to give birth. We look for her and take her to the hospital with her mother until she leaves the hospital. Little girls cannot remain alone in the camp.”

The Ministry of Education affirms that all minors have the right to access the education system, but, obviously, it is impossible to bring them to school: being in transition and under such bad living conditions. Entire families (grandparents, parents and sons) have been settled in the camps, as it is the case of one whole family who had to flee from the Democratic Republic of Congo war.

It is difficult to calculate the average length of the stay in Nador, between six or seven months. But many people have remained trapped more than a year in Morocco. Some state they have spent more than three years in these terrible conditions. Time passes until they are able to collect enough money to afford to pay for the trip to the Peninsula. The journey by “boat” costs between €1,000 and €2,000, with two attempts per person. If they are not able to reach the Peninsula in these two attempts, they must start saving money again.

Some organisation of the civil society in Nador gain access to the camps and provide health care services to these people. They are available 24 hours a day for any emergency and when medical attention is required they take patients to Nador hospital. The hospital staff give an adequate treatment to sub-Saharan migrants and refugees although their resources are very limited.

2.2_SHORT-STAY HOTELS

Syrians usually stay in short-stay hotels in the city. In September 2015, at the time of the “refugee crisis”, between 800 and 1,500 Syrians were waiting in Nador for the opportunity to cross the border and seek international protection. The Spanish Government did not enable them to cross the border, but instead turned its attention to those who had arrived from other European Union member States (EU) - Italy, Greece and the Balkans route - negotiating relocation which so far has not come to fruition.

Nor did they provide them the option of seeking asylum or requesting a humanitarian visa in Nador’s Spanish Consulate, as article 38 of Asylum Law states. Some NGO’s, such as CEAR urge these possibilities to be applied. Syrian refugees protested in front of the Consulate on two occasions, in September 2015.

The stay in Nador for Syrians usually reaches about 40 days. They stay in cheap hotels: one night costs between 90 and 100 dirhams (approximately between 9-10 euros), but that figure is for large families that stay in one room in order to save money. The stay in Nador for Syrian refugees is not usually problematic, except for occasional cases of conflict with the local population. The problem appears when they try to cross the border: The Moroccan authorities do not let them leave the country as they are considered irregular immigrants. Some Syrians have been detained at the border and have spent several days in prison due to clashes with the border police.

2.3_VIOLENCE AND TERROR

The sub-Saharan people frequently suffer violence and abuse in Nador from the security forces and from individuals.

BY THE MOROCCAN AUXILIARY FORCES

The Moroccan Auxiliary Forces’ (MAF) main aim is to stop migrants accessing the border with Spain. To do this, they regularly use violence against the belongings or the people themselves. Many migrants state that the worst part of the settlements, worse even than the material conditions, is the fear of the MAF appearing. It is an extreme humanitarian situation.

The MAF violently demolishes the camps several times a week, burning the few belongings they possess. It is common to see remains of burnt plastic and blankets used to construct the small tents.

Pierre (20-year old, Cameroon):

“Yesterday the Police came and burnt everything. They come almost every day. The matter of papers is a torment. In Cameroon we would not treat you like this.”

Hannah (Nigeria, 35-year old):

“I am in Selouane. The Moroccan police regularly come to the forests and burn everything. They come in the morning. In my camp there are men, women, boys and girls. I have tried to cross three times. But the Moroccan Police caught me.”

Alan, (Mali, 22-year old):

“We could never leave Gurugu, because if we came down to the city (to pray, for example), the Police would catch us. But in Gurugu there were several police raids every month where they burnt everything that we had, but we hid ourselves.”

The people who work close to the sub-Saharan migrants describe an equally hard situation:

“Everybody is on the mountain, in the forest camps. No-one rents them flats, no-one wants them there... The Police arrive and demolish everything they see on the mountain. They burn everything in front of them, pans, everything. Including the scarce water sources they have, they dirty them so they cannot drink and then they leave.”

The sub-Saharan migrants suffer beatings. Sometimes they end with broken bones. Some people have died.

Furthermore, the sub-Saharan migrants live with the constant fear of being arrested in the camps or in Nador or in other urban centres. Thus, they do not dare approach urban centres. After their arrest, they are usually driven to other Moroccan cities far from the border: Fez, Meknes, Rabat. Sometimes they try to expel them to Algeria, but Algeria do not accept them back. In spite of everything, these people always return to Nador, regardless of how complicated the journey may be.



BY THE LOCAL SOCIETY

The sub-Saharanans in irregular situation in Nador cannot work, cannot rent flats or, if they do, they frequently suffer abuse from individuals who take advantage of their vulnerability and secrecy: extortionate rents, robbery or labour exploitation. Thus, they settle in the provincial forests and beg or accept despicable jobs.

They suffer beatings and robbery from delinquents who attack the camps. Many women are raped. Unpunished crimes, as the victims already lack rights.

Alfred (Guinea, 19 years old)

“I spent eight months in Bolingo. There is a lot of violence from delinquents who attack us with rocks and knives and rape women.”

Martine (Guinea):

“They stole my mobile phone in Nador. They steal your bag; they steal your phone. If I go to the market and they see that you are a foreigner, that you are black, if something costs 1 dirham, they will charge you 3. They take advantage of us, many Moroccans are racists, they harm us. They are not good people. And I am a Muslim. But I have regretted coming to Morocco.

Abel (Guinea):

“In Morocco I was alone and I tried not to leave the camp because there are many delinquents who attack sub-Saharanans”.

A social worker:

“In Nador they cannot even walk in the street, due to the treatment they receive.”

2.4 THE FEMALE VICTIMS OF TRAFFICKING

The existence of camps controlled by mafia and used for trafficking on human beings is widely known, although some of them are inaccessible to civil society organizations. English-speaking Sub-Saharan women are victims of trafficking in 95% of all cases. They are often deceived into being caught or are captured violently in their countries of origin with the objective being take to Europe for sexual exploitation. In other cases, some women are sold by their own families. The average age of these women, some of whom are also pregnant, is between 15 and 19 years old. Many children of no more than six years old, also live in these camps. These women live with a constant fear and they are never seen without the men that control them.

A recurring story is that of families who are deceived by mafia into thinking that they have found work for the women in Europe and that they can provide them with documentation. The women abandon their homes and families and embark on the migratory process, which turns out to also be a process of slavery and exploitation. They are intimidated with threats whilst their families are threatened with voodoo rituals. As soon as they leave their country the women are prostituted

and are often subjected to voodoo ceremonies throughout the whole journey. Once in Nador, their torment shows no sign of ending. Access to the Spanish Peninsula depends on the demand the traffickers receive from their contacts in Europe and according to the needs of the market in various European countries. The women are reduced to mere commodities. The mafia bosses work closely with the leaders of the migrant camps who manage the trip and control the women (either directly or via middlemen), receiving financial remuneration in return.

Arrival in Spain is improvised when nobody is watching. Upon arrival the women are informed that they have a large debt to pay back to their traffickers – anywhere between €30,000 and €80,000 – which means many years of work.

The women do not prostitute themselves on the streets of Nador due to the penalties and incarceration that they could face. Instead, they are made to work in the forest or, as it is suspected, in any of the two or three private houses in the city that are set up for these purposes.

The women frequently end up pregnant; something the traffickers sometimes view positively as it can facilitate their arrival in Spain. However, if they do not see it favourably, they force them to have abortions. One of the methods used to abort is to ingest liquids that ensure that the foetus is deformed and is born already dead. Such products are highly dangerous and sometimes also cause the death of the mother. In addition, this method does not always carry out the abortion properly, but rather partially, which can create infections, the rupture of the uterus, etc. In many cases, the women have to go to private clinics to have the abortion finished off. Women being subjected to these circumstances may often not have reached their 17th birthday.

A particularly distressing case was that of a woman seven months pregnant with twins. Upon arrival at one of the camps she was raped four times causing the death of both unborn twins and the woman. Those responsible for running the camp claimed to have not been involved in the deaths and blamed local Moroccan men, who in turn declared their innocence, laying the blame with the sub-Saharan men; another example of a crime left unpunished and hidden.

Very few women manage to escape from these trafficking rings – fearful of reporting their captors. The few that have reported them did so due to the terrible things that the mafia members subjected them to and the subsequent realisation that they were in grave danger. These women now find themselves in Europe, protected and trying to integrate themselves into society. The IOM (International Organization for Migration) works together with these victims of trafficking hiding them in clandestine apartments and helping them claim asylum. When their applications are put through they have their identity changed due to the dangerous world that they have escaped from. They begin to be treated like people instead of mere sexual objects. In Rabat, the UNHCR and the Foundation Orient-Occident run a victim protection programme that, thanks to agreements with Canada, Norway and France, is able to resettle the women in secure conditions.

Joy, a 22-year-old Nigerian from Benin City, had completed her secondary education before abandoning her country. She has six brothers and used to live with her family. She left her country by car, passing through Niger (she mentions the city of Agadez) and arriving in Algeria. She finally entered Morocco via the province of Uxda. In 2014 she was living in one of the settlements close to Nador regularly destroyed by police. She says:

“Morocco does not like black people. They go to the forest and destroy everything that we have. They are Africans themselves even if they don't recognise it, but they single us out for being black”.

She tried to enter Spain by crossing the sea in a dinghy (after paying between €1,000 and €2,000), but the boat was intercepted by the Moroccan authorities. In the end, Joy reported the trafficking to which she was being subjected and she was taken to a safe-house in Rabat under the protection of the Foundation Orient-Occident as part of a programme run by the UNHCR for returning victims of trafficking home.

The majority of Moroccan civil society organisations in Nador are of the opinion that there are no solutions to the problem of trafficking on human beings. It is also widely believed that a woman can only be recognised as a victim of human trafficking if she reports it herself. Moroccan NGOs consider the women involved to be victims of smugglers, not human traffickers. No-one has ever presented themselves to one of these organizations to report what they have experienced, believing that they don't have the capacity to address their tragedy. Whilst there is no political will to tackle the issue, the problem will only continue to exist.

What's more, the women **that are not victims of trafficking** are still in highly vulnerable situations. They are a minority in the trafficking camps and are frequently repressed. Many see no other way but to prostitute themselves because they have no alternatives to earn money and to continue on their journey to Europe. In spite of having more 'freedom', they often have to look for a man that will protect them, as without this presence it would be difficult to survive the migratory journey. They either manage to choose a man to accompany them themselves, or one is imposed upon them by the leader of their group. Lucy, from Nigeria, was forced to find a protector by her group boss, who recommended that the best way to cross the border was to be pregnant. She maintained a relationship with fellow Nigerian, Ibrahim, with whom she gave birth to a son. After the birth they decided to return to Nigeria because the difficult conditions in Nador were not suitable for a newly born child. Ibrahim had already managed to cross the border four years earlier by jumping the fence and for a while he worked in Spain before travelling to Switzerland from where he was eventually deported and given a small amount of money to spend in his country of origin. Later on, he decided to set out on the journey to Europe again, the circumstances in which he met Lucy.

2.5_ASYLUM IN MOROCCO

Morocco has signed the 1951 Geneva Convention and the 1971 Protocol, but it still hasn't developed its own asylum law. The UNHCR is the body responsi-

ble for registering persons applying for asylum, providing humanitarian aid and working towards finding lasting solutions. The Moroccan Government differentiates between people that are not Syrian, to whom they provide with a national asylum card, and Syrians whose status and documentation is still to be determined. The UNHCR has advised the Moroccan Government to supply Syrian nationals with a refugee card similar to those given to people of other nationalities.

In September 2015 the UNHCR opened a new office in Nador that aims to raise awareness about refugees and asylum and monitors all cases. The majority of Syrian nationals and sub-Saharaners are not interested in formalising asylum applications in Morocco as they want to continue on their journey to Europe. Even if someone applies for asylum in Morocco, the absence of an asylum law means that effective protection is not enjoyed by potential applicants of international protection. Residential and employment permits are temporary and their renewal is not guaranteed. Refugees also do not benefit from the same rights as Moroccan citizens.

3_CROSSING THE BORDER

There are four border crossing checkpoints to enter Spain: the Beni-Enzar crossing (where the Asylum Office is situated), the Barrio Chino crossing (known for the 'atypical trade' conducted by female mules), the Farjana crossing and the Mari Guari crossing (open for the sole purpose of allowing Moroccan children to access a school run by the Moroccan Ministry of Education that is situated in Melilla).

3.1_THE SMUGGLING BUSINESS

The difficulty that migrants from developing countries face in entering Spain via lawful routes have created a source of business for mafia groups and smugglers.

Everything points towards the existence of a collaborative agreement between Spain and Morocco to control access to Spain. Sources consulted on both sides of the border confirm excellent migratory collaboration between both countries and the importance that Morocco holds for Spain in this sense.

Spain talks about accommodating the arrival of refugees from Morocco at 'the capacity that our country can manage'. In order to do this, Morocco seems to control the flow of migrants coming into Spain, allowing more or less people based on the spaces available in the welcome centres within the Peninsula and in the CETI (Centre for Temporary Residence of Immigrants). Everything indicates the existence of a synchronised process to manage the flow of people.



Sub-Saharan people cannot even access the border perimeter even though they have the right to seek protection under international law. Since the Asylum Office was opened on the Melilla border crossing not one single application of asylum has been registered by a person of sub-Saharan origin, even though there are many living in forests on the outskirts of Nador as part of their attempts to cross into Spain and on to other European countries. They state that it is very difficult to reach the border due to the presence of the Moroccan authorities that turn them away violently as soon as they approach it.

As for other nationalities, the closing of the border is a relatively frequent practise used to manage the flow of departures from Morocco to Spain, but which is nonetheless carried out without any criteria. For a time, the Moroccan police closed the border crossing, impeding all access to the Spanish border even to Moroccan nationals. The closure was based on the pretext that a build-up of Syrian migrants meant that there was the risk that they could try to slip across the border amongst Moroccan nationals. However, Spanish authorities have also been responsible for closing the border on some occasions which causes huge build-ups of desperate people trying to cross the border.⁸

Issa (Syria, 30 years old):

“I tried to cross over to Melilla walking via the Farhana border crossing but the Spanish police moved me back to Morocco. I then tried again through the car route and finally managed to cross by running. Previously, I had tried to cross through the Beni-Enzar crossing with both a Moroccan and Syrian passport but the Moroccan authorities didn't let me leave.”

⁸ “Around 70 Syrians enter Melilla on road via the main border crossing checkpoint” (26/10/2015), El Mundo, available at: <http://www.elmundo.es/sociedad/2015/10/26/562e32b846163f58648b45c0.html> [Accessed 02/02/2016].

It's worth drawing one's attention to the fact that during the period between the 15 and 20 of December 2015, on average only 20 to 30 refugees crossed the border each day, when approximately 1,000 Syrian people in Nador were trying to enter Melilla.

It is also difficult to understand why sometimes the Moroccan police were present in the international border zone, including at the entry point to Spain.

Those that wish to enter Melilla have to instead resort to smuggling networks and mafias that, with prior payment, will facilitate the crossing. Very few people manage to cross the border without paying large amounts of money. The mafia groups exert a huge influence over the migrants and refugees, indicating how they will cross and what they have to do once in Melilla. Migrants find it difficult to trust those that do not belong to these mafia groups, such as civil society organisations, the UNHCR, the authorities, etc.

Fuad (Syria, 25 years old):

“The mafia are those that have helped me the most”.

Understanding these networks of ‘smugglers’ is a difficult task due to the fact they operate as a complex chain of different intermediaries. Various individuals that operate alone also exist. They contact migrants and refugees either directly through the migrant camps in the forests, or in the places that they regularly visit in Nador, and they use their vast social networks of family, friends and acquaintances. They then charge elevated amounts for their services and in many instances they also force the migrants (also Syrian refugees) to part with their documentation in the belief that this prevents them from being able to be returned.

3.2_METHODS

The difficulties in crossing the border via formal means imposed on migrants by the authorities have been the ideal breeding ground for the emergence of various informal methods of entry either on foot, by car or by water.



ON FOOT

Many Syrian people obtain false Moroccan or Spanish documentation in order to benefit from the same ease in crossing which residents from Melilla and Nador experience. They disguise themselves as Moroccan people and on occasion, children cross holding the hand of a Moroccan national who pretends to be their parent. Documentation costs around €1,000 for an adult and between €400 and €700 for a child. Prices vary according to demand and the difficulties in crossing the border relevant to that point of access

Khalil, from Syria, tried to cross the border three times without success. In the end, he disguised himself as a Moroccan and crossed undetected amongst a group of people without paying anything. One of his sons crossed alone running with only a photo of his passport whilst his wife also managed to make her way across the border two days later also dressed as a Moroccan.

Issa, also from Syria, had to pay €1,300 to smugglers. He left Syria and the war two and a half years earlier looking for international protection. Crossing Turkey, Lebanon, Algeria and Morocco made him spend more than €26,000, an exorbitant amount of money considering that the average income per year in Syria in 2011 was \$5,100 (American dollars).

Amal, a Syrian mother of three children and whose husband is in Lebanon, had to pay €400 per person to cross the border between Algeria and Morocco, and a total of €4,400 to cross the Spanish-Moroccan border with her three children.

For large families the total cost can reach around €13,000, such as was the case for Aamer's family from Homs in Syria, made up of 15 members, including his wife, sons, siblings and their children. They crossed Lebanon, Egypt, Algeria and Morocco. They state that the Spanish-Moroccan border is the worst.

The majority of Syrians pay to be able to leave Morocco and then once at the Spanish border point they seek asylum with their real passport. Some of them pay more and enter Spain with a Moroccan passport in order to avoid formally applying for asylum in Spain, as they falsely believe that this will benefit their application in other European countries.

Sub-Saharan people cannot cross the border on foot as they are not able to acquire false Moroccan or Spanish documentation because of the colour of their skin. Even so, throughout 2015, many Sub-Saharan women admit that they managed to enter disguising themselves as Moroccan women with Islamic veils.⁹ However, it is said that in the last few months the number of women that have managed to reach Melilla has declined considerably.

9 "An altercation between police and Moroccans after a sub-Saharan is found trying to slip through" (16/01/2016), El Faro Digital, available at: <http://elfarodigital.es/melilla/sucesos/177841-rifirrafe-policia-con-marruecos-tras-colarse-una-sub-sahariana.html> [Accessed 02/02/2016].

Martine (Guinea):

“I was in Casablanca for four months and then, a further four months in Nador. I was in Bolingo, and then in Jutia, along with many others, some of them women. My friends and I saved enough money to be able to travel aboard a Zodiac inflatable boat, but I got scared and so decided to try crossing on foot. They wouldn't let me, so I dressed up as a Moroccan woman and left at 5am. Many women enter at this time, so I put on a head scarf, lots of make-up and I got through”.

BY CAR

Another method that people use to cross the border is to hide themselves in a car. Above all, this method is used for Syrian children. On such occasions, the smugglers order minors to pretend to be asleep, or they simply hide them. They then wait together with the children's families on the other side, on a bridge close to the Melilla CETI.

Fouad (Syria):

“My brother's son crossed the border hidden in a car. They left him at the door of the CETI. Three of my nieces and nephews also crossed in a car driven by a smuggler. Their mother was already in the CETI, whilst their father, my older brother, stayed in Nador. The car left the children at the door of the CETI too.”

Salim (Syria):

“First, my wife crossed the border on foot and once there she requested asylum at the border checkpoint. Two days later my children entered during the day hidden in the boot of a car. They asked for asylum at the CETI and I paid €1,000. I was the last to cross a few days later. I was also hidden in a car and they left me in the doorway of the CETI at 1am.”

Sub-Saharan people pay up to €2,000 to be hidden in the dashboards or false compartments of cars, putting their lives at risk in the process. When they come out they often show symptoms of exhaustion, numbness, joint pain and general malaise.

BY SEA



The most used method in the second half of 2015 by Sub-Saharan people in order to gain access to Spain was by sea, aboard dinghies or other types of small boats. The cost of each journey is around €1,000. In the majority of cases, the boats go directly to the Spanish Peninsula (Almeria, Motril, etc.), which takes about eight hours. Otherwise, the boats head to Melilla, a journey that lasts approximately a quarter of an hour.

Travelling by sea can be dangerous for various reasons: the changeable conditions of the waters, the excessive strain from overloading, the unstable nature of the inflatable rafts and rowing boats that are not made for this type of journey, as well as the fact that some migrants cannot swim, etc.

Hannah, from Nigeria, has been stuck in Nador for several months with her newborn child. She has tried to cross the seas in a dinghy three times:

“The boat is big; we usually go with up to 50 people. I don’t know who is the person in charge of everything. It’s not a safe way to travel but I don’t have the money to go by car. Travelling by car is much more expensive.”

BY FENCE

The most dangerous access method is jumping the fence, due to the violence from the FAM on the Moroccan side and the precarious structure of the fence itself. Measuring six metres in height, the double fence is covered with an anti-climb mesh, between which lies a three-metre-tall three-dimensional web of wire.¹⁰ Sub-Saharans that usually jump the fence are those who do not have any economic resources and that are frequently camped on the slopes of the Gurgu Mountain.

In April 2015, Morocco ended the construction of a barbed fire fence on its side of the border. Between the Spanish fence and the Moroccan fence, a trench was dug measuring five metres in depth. The zone is heavily controlled by the MAF.



¹⁰ Interesting diagrams available at: “Diagram: The Melilla border fence” (20/11/2013), eldiario.es, available at: http://www.eldiario.es/desalambre/Grafico-valla-Melilla_0_198780906.html [Accessed 02/02/2016].

In 2015, the number of people entering jumping the fence decreased significantly, maybe due to the new Moroccan fence, or the increasing repression from the MAF or maybe due to the “push backs” practice carried out by the Spanish Civil Guard. It is possible that more people are now opting for the migratory route towards Libya and fewer towards the West Mediterranean route.

On the 21 of November 2015 many people tried to jump the fence and many “push backs” were carried out. Mohamadou (21 years old, from Mali) fell down on the Spanish side from a height of six metres, suffering a heavy blow to the head which caused him a head trauma.¹¹ He spent 14 days in intensive care and was hospitalised for two months. Due to the brain damage that he suffered he now finds himself in a state of acute disability. Despite the recommendation of the Ombudsman to move physically disabled people to a specialised centre in the Peninsula, after he left the hospital he was moved to the CETI, which lacked the adequate facilities to care for his special needs. However, after numerous interventions from civil society organizations, such as the NGO Prodein, he was finally moved to Spain, having been in the CETI for almost a month where another migrant and one staff member of the centre took care of him.¹²

3.3_FAMILY SEPARATION

It remains very difficult for Syrian families to cross the border together because of the control made by the Police. They often face no other option but to attempt the crossing separately. Not all of them manage to cross and family members often end up on different sides of the border: the separation is traumatic. Parents are really affected when they have to separate from their children, not knowing when the smugglers will bring them across the border. The only thing the parents can do is to trust smugglers.

If part of a family manages to enter Melilla while the rest of the family has still not left Nador, those that arrive first on Spanish territory are normally transferred to the mainland first, leaving their loved ones behind in the CETI in Melilla, or still in Nador. As the official protocol and the criteria followed by the Ministry of the Interior for moving migrants to the Peninsula are not public, it is impossible to know whether they take into account that some families prefer to wait until they are transferred to the Peninsula. The very practise indicates that they do not take heed of this.

¹¹ An immigrant in intensive care after jumping the border fence (21/11/2015), El País, available at: http://politica.elpais.com/politica/2015/11/21/actualidad/1448103622_437577.html [Accessed 02/02/2016].

¹² From a coma to the immigrant detention centre (22/01/2016), El País, available at: http://politica.elpais.com/politica/2016/01/20/actualidad/1453301352_827199.html [Accessed 02/02/2016].

DNA TESTING



Separate border crossings by different members of the same family often end up in DNA testing for minors that travel alone.¹³ Any unaccompanied child that is intercepted on the border must be taken to the National Police Station and put under the custody of the Consejería de Bienestar Social of the Autonomous City of Melilla where they reside in a children shelter. This practise began with children that arrived without documentation, the majority from Sub-Saharan countries, accompanied by adults that on many occasions were not their parents. To prevent child trafficking, DNA testing was introduced in order to prove that the adult travelling with the minor was in fact their parent.

The situation for Syrian families is completely different; the children come with their parents but cross alone because they have no other option. They normally carry documents that confirm their identity (passports and family records books). 100% of DNA tests carried out on Syrian families have resulted positive - there has not been a single case in which parentage has proved false. In spite of this, the practise has been maintained until very recently.

Minors are always automatically separated from their parents and taken to the children's shelter, 'La Purísima', or for the youngest children, 'La Gota de Leche'.

'La Purísima' does not meet the standards for reception of children applying for asylum and it is also overcrowded. Syrian children frequently complain about their stay, as they are separated from their parents in a city they don't know and without speaking Spanish. Many of them have cohabitation problems with other

¹³ Syrian children cross the border into Melilla alone (17/09/2015), El País, available at: http://politica.elpais.com/politica/2015/09/17/actualidad/1442519896_242562.html [Accessed 07/04/2016].

minors in the centre and they almost all report cases of their belongings going missing. It's common to see the children at the entrance of the CETI, spending the day with their family.

‘La Gota de Leche’ has been less controversial than ‘La Purísima’, yet it still enforces limited visiting times in which parents can see their children. For Khalil, who has a two-and-a-half-year-old daughter in the centre, the daily visiting time was reduced to only 15 minutes per day “because of the cries that the child let out every time she saw her parents”. The difficulty in reaching the centre from the CETI without any economic resources also increases their anguish.



Are the best interests of the child really protected by separating them from their family?

The best interests of the child are protected if they don't suffer more than what they have already experienced as a consequence of the armed conflict, suffering during the journey and the crossing, alone or accompanied by a stranger. Such interests are only protected by not separating them from their family in a completely unknown environment.

In some cases, delays with appointments or errors in the DNA results have caused family separations and stays in Melilla to be prolonged. Much contradictory information on what has or hasn't been happening exists. It seems that a lack of understanding and communication prevails between the police, the public prosecutor's office and the Consejería de Bienestar Social. At one point, provisional care units were created so that families could live together whilst they awaited their DNA test results but this was reversed when it came to light that some people had been transferred to the Peninsula whilst still awaiting their test results. Families suffer even more due to the constant lack of correct information.

Fatima (one of the mothers who has suffered the consequences of these terrible family separations):

“Friends have asked me if they should come via this route and I have told them not to come here, in case they have the same problems as me”.

4_ONCE IN SPAIN

Migrants and refugees stay in Melilla is plenty of difficulties: at the time to seek asylum or as a consequence of the irregular crossing.

4.1_POSSIBILITIES OF APPLYING FOR ASYLUM

REQUESTING ASYLUM AT THE BORDER



At the beginning of 2015 two Asylum and Refugee Offices were opened by the Spanish Ministry of Interior at the border crossing of Beni-Enzar. As we described in the previous section, these offices are not easily accessible, due to prior checks by the Moroccan police: practically all Syrians end up buying false documentation in order to cross the border; and Sub-Saharan can't even access the border crossing point. At the end of 2015 there wasn't a single registered asylum application by a Sub-Saharan. Furthermore, those that are in Nador don't know about this possibility. Nonetheless, many of the people found in the CETI come

from African countries in conflict which have forced them to flee in order to seek protection, such as Mali.

Those Syrians that cross with false documentation, upon arriving at the Spanish control show their real documentation, if they have it, and express their willingness to formalize an application for international protection. In the border asylum offices, they have the right to a lawyer and an interpreter. They formalize their application before an official from the National Police Force. It is important to have an active legal assistance during the interview.

In those cases, where the application is processed at the border, applicants then go to the Centre for Temporary Residence of Immigrants (CETI in Spanish), where they wait to receive the red card for asylum applicants and to be transferred to the Spanish mainland.

In those cases, where the application is either not processed or denied at the border, applicants then have two days to submit a re-application. If the re-application is denied, there remains the possibility of an administrative appeal. To this affect, the individual concerned will have to go to the Melilla Bar Association to be assigned a lawyer in Madrid and to contact this lawyer who will process the appeal. The fact that the process continues in Madrid, however, does not mean that this person will be transferred to the Spanish mainland.

ASYLUM APPLICATIONS WITHIN THE BORDER

Those people that have already crossed into Melilla can apply for asylum at the local Police Station. A person resident in the CETI that wants to apply for international protection will contact the Spanish Refugee Aid Commission (CEAR in Spanish), who are in charge of providing legal assistance in the CETI. They will then arrange an appointment with the Police for the formalisation of the application. The applicant has the right to a lawyer during the interview.

Asylum seekers are legally in Spain but cannot move to the mainland as they don't have free movement within the country. Until relatively recently they weren't transferred to the mainland while their application was in process, something which could take years and discourage to seek asylum in Melilla. The restrictions on free movement violate national, European and international laws; and have also been declared illegal in the law courts. A person applying for international protection in the border would be in a discriminatory and evidently unequal situation in comparison with those that apply for asylum on the mainland, as the Ombudsman has stated.

PEOPLE IN TRANSIT (“OBUR”)



Some Syrian people decide not to apply for asylum on the border or within the territory. As they cannot be deported, because they come from a country in armed conflict, they are in a situation of “legal limbo”. They are not applying for asylum because they do not want to remain in Spain but rather to go to other European countries. If they apply for asylum in Spain, they know that they are obliged to stay in Spain and that they could be returned back here when they are already established in another country. They think that their fingerprints, taken when they arrive on Spanish soil, will not remain registered in the European database Eurodac, and so they won't run the risk of being returned to Spain once they arrive in other EU countries. It's as if they have created a new legal concept, known as “transit” (in Arabic: “obur”).

Omar (Syria, 33 years old):

“I haven't applied for asylum. I'm an “obur”. I didn't show my passport, I came directly to the CETI, because I didn't want to apply for asylum. Because if I apply for asylum they register your name in Spain and you remain registered (...) I want to go to Sweden where my mother is and the rest of my family are. I want to apply for asylum in Sweden. Here, in the CETI, I'm separated from my wife and children”.

They are heavily influenced by what the mafias told them before they arrive in Spain. But the Spanish authorities do not explain and clear up this misunderstanding. In any case, their right to be informed is violated.

Ahmed (Palestinian from Syria, 31 years old), left Syria in April towards Mauritania and from there crossed to Morocco and finally arrived to Melilla:

“I want to go to Belgium, where houses are provided to families very quickly. They say that you only stay one week in a refugee camp and then you go to a house. In Belgium they give you the nationality quicker. Whereas here they wouldn't give me it until I'm 40 years old”.

Saleh (Syria, 30 years old):

“I don't want to stay in Spain. Spain doesn't provide housing, you have to stay in a centre and only for 6 months, there's no work... whereas in Germany there is work. In Germany they do give you a house. I would also like to go to Norway, Sweden, Belgium or England”.

Currently, people who don't apply for asylum stay longer in the CETI in Melilla. The majority remain stuck for around 6 months, without receiving any information about their transfer date. Those Syrians not applying for asylum have reacted by organising several protests before the Government Delegation, including prolonged hunger strikes that in some cases ended up in hospitalization.

4.2_ILLEGAL CROSSINGS AND THE ALIENS LAW

REJECTION AT THE BORDER

The Aliens Law clearly establishes the legal framework applicable to foreigners that try to enter in Spain by unauthorized border crossings. By entering illegally, a process of return or deportation is initiated.

Nevertheless, in April 2015, the Government tried to legitimise with the term “rejection at the border” the practice known as “push backs”¹⁴. It is a practice applied to those that jump the fence, and step on Spanish soil between the fences, or that cross all of them. Despite contradicting national, European and international regulations and despite the fact that numerous national and international institutions (like the Ombudsman and Council of Europe respectively) have denounced them, they have been practised for years, but made public and large-scale in 2014.

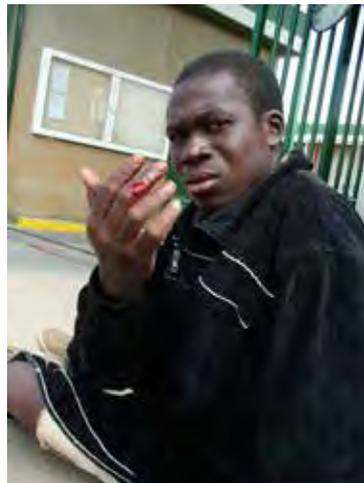
The European Committee for the Prevention of Torture (CPT) has also recommended that Spain stops these practices. The law is under appeal before the Constitutional Court and has also been reported to the European Commission. Currently the European Court of Human Rights is ruling a case in which two Malian citizens were returned to the Moroccan authorities.

The tenth additional provision still hasn’t been carried out, despite the urgent recommendation from the Ombudsman to the Spanish Ministry of Interior (29th June 2015), that the need to enact an administrative order including legal assistance, interpreter, possibility of appeal and to state written acknowledgement of the information provided about international protection is respected.

The Spanish Ministry of Interior defends the operational border concept, which is outside the law. It doesn’t consider the border fence to be Spanish territory. Vigilance is high on both sides, from the MAF and the Spanish Civil Guards: cameras (some provided by FRONTEX), helicopters, and an operations room in use 24 hours a day, a constant strengthening of personnel sent specifically for the fence, etc. They understand that the entrance into Spain is completed by crossing the fence or setting foot on dry land from the sea, once the security forces are passed, or by being removed from the false bottom of a car.

Those people rejected on the border are turned over to the Moroccan authorities even knowing that they will probably be detained, beaten and taken far from Nador, in the desert or the border with Algeria. On many occasions, the Spanish Civil Guard have been accused of using excessive force when carrying out these returns. People who work in humanitarian aid know too well the consequences of these returns: wounds, bruises, broken bones, haemorrhages...

“It was a big shock, a lot of people laid out while we treated them or moved them to the hospital,”.



¹⁴ Tenth additional provision of the Aliens Law, by means of a first final provision in the Protection of Public Safety Law.

During the last two years two cases have been heard in relation to crossing the fence¹⁵. One investigated a supposed case of inhumane or degrading treatment of a young man from Cameroon by agents of the Civil Guard and was dismissed because of inconsistencies in the testimonies and the absence of the presumed victim (the immigrant, who probably remains in Morocco trying to enter). The second case investigated was dismissed by the Regional Court of Malaga, who concluded that, because the amendment to the law legalizing the rejection on the border had previously been passed, no crime was committed in the rejection.

In 2015 fence crossings were much reduced: between April and October only 32 people managed to enter into Spain and six in November. It was in this last crossing where “push backs” were documented.

One of the people that managed to get to Melilla crossing the fence applied for asylum in the territory, Alan (Mali, 22 years old). He states that he had to cross the fence because it was impossible to gain access to the Asylum Offices on the border. He ended up injured and ran the risk of being returned to Morocco:

“I stayed eight months and ten days in Gurugú. On the tenth day I crossed the fence.

By crossing the fence, I injured my foot, so I hid in the woods of Melilla near to the border, I was the last of the group to arrive at the CETI. I was number 34 to enter”.

A person who belongs to the judiciary declared:

“Everybody knows that once they have been sent back, the Moroccan Police are going to beat them. The Police work like that over there. So, knowing that, you can't send them back, because of the principle of no refoulement. The Moroccans aren't interested in the Asylum Law. What they want is impunity and to do what they fancy. Why don't they let them apply for asylum at the Consulate? Now that Sub-Saharanans don't have access to the Asylum Offices on the border the ideal thing would be for them to apply for asylum at the Consulate, but they have instructions from above not to do that. They leave them in limbo and with the options: jumping the fence, or arrive by swimming or hidden in a car”.



¹⁵ Documented evidence of these crossing and returns can be found in the following video by the NGO PRO-DEIN: <https://vimeo.com/124410168>.

There are people who have been push back more than twice. This is the case of Musa (Guinea, 26 years old), who arrived in Morocco in 2013, was returned on two occasions and until 2015 wasn't able to cross the border:

“My first attempt was in 2013, between the cemetery and Farhana. The dogs barked. Three metres of concertina wire. We had ladders to climb up quickly. We ran. We passed 37 Cameroonians (...). It was 5am, but there were helicopters and the fence was being guarded (light) by the Civil Guards: we couldn't get across so we went to and hid until 10am (...). God gave me the opportunity to be there. I descended between the second and third fences. I ran towards the door, which was open because they had gone in that way. I went through and was in Melilla, I was barefoot but I ran a long way”.

In that moment Musa didn't know how to get to the CETI. He asked a boy who in exchange for the answer asked for money. Musa didn't have any money and didn't want to give the boy his phone, as it contained all the memories of his family, and besides was his only means of communication with his country. In the end the Civil Guards detained Musa and handed him over to the Moroccan authorities, who in turn took him to Uxda. After this development, he returned to Gurugú Mountain until he had the opportunity to try to cross the fence again:

On the 15th day of Ramadan in 2013: Guineans to Mari Guari (which is a long way from Gurugú), I walked from 10pm to 4am. But upon arriving we rested a little () Only one concertina wire, it was 5 metres, the concertina wire above the fence. I injured myself on the wire because I got stuck. I fell. I climbed again. Someone else was arriving at the third fence. But I was stuck on the wire. I didn't know how I was going to pass”.

Musa has various deep scars all over his body as a result of the concertina wire on the fence. On that occasion he was also sent back, very injured. He claims he thought he was going to die. The reason why after all this it took him so long to get to Melilla, is because he was sent back to Mauritania. When he managed to return to Morocco, going via Mali and Algeria, he was confined in a migrant camp in the city of Meknes.

5_STAYING IN MELILLA

The stay in Melilla takes places in the Centre for Temporary Residence of Immigrants (CETI in Spanish). Coming to this centre is voluntary, for which so some families (very few and mainly Syrians) opt to finance their stay living elsewhere in the city. It is in the CETI where transfers are announced weekly, so those living elsewhere come back to check whether or not they are listed.

As set forth below, the CETI is not a suitable housing place, much less for those applying for asylum, following Spanish and EU legislation. Numerous institu-

tions, such as UNHCR¹⁶, the Ombudsman and diverse NGOs, have criticized the lack of facilities in the centre. Regarding asylum seekers, there is a great difference between the reception conditions in Melilla and centres on the mainland.

Surprisingly, the CETIs lack comprehensive regulation. The regime of departures and transfers to the mainland is not regulated, the most vital aspect for the residents of the CETI given their transitory nature: when am I going to leave, what criteria are used for departures, why has my departure been delayed? Residents for example, don't have their rights and obligations established, only a leaflet with basic co-habitation rules, without legal status.



5.1_BEING IN THE CETI

The CETI in Melilla is a primary reception centre under the Ministry of Employment and Social Security (MEYSS in Spanish) with a capacity of 480 places. It belongs to a public network of migration centres that enacts the Aliens Law. It is accountable to the Sub-Director General for the Integration of Immigrants. There are services outsourced to non-profit organisations via subsidies (Red Cross, CEAR, ACCEM y Melilla Acoge) or to contracted companies: food, security, cleaning and medical attention. The administration has 15 employees: director and sub-director, social workers, drivers and administrators. Totally inadequate for staying long periods, many of its residents stay for more than 4 months, others for more than a year.

¹⁶ "The CETI in Melilla, 'very far from completing' international regulations, according to UNHCR" (29/12/2015), Europa Press, available on: <http://www.europapress.es/sociedad/noticia-ceti-melilla-muy-lejos-cumplir-normas-internacionales-acnur-20151229105936.html> [Accessed 06/02/2016].

ABSENCE OF A COMPLAINTS SYSTEM

The centre lacks an effective system for residents to send suggestions or complaints to the staff (complaint or suggestion forms) or to other authorities. In many cases, the residents find it impossible to communicate with the staff due to the large queues that are formed every day, running out the time for resident support without receiving an answer. There are two or three resident representatives who sometimes meet with the director, without clear representation criteria (nationality, language...). Neither is there a control system for the functioning of the CETI on the part of prosecutors and judges. However, the Ombudsman carries out regular visits to the centre, after which he issues the relevant recommendations.

ABSENCE OF A SANCTION PROCEDURE

There is also no record of sanctions, nor a sanction procedure: they are imposed discretionally, with a risk of arbitrariness. One of the worst sanctions consists of the temporary expulsion from the CETI without providing alternative lodgings. The person sanctioned remains in the street, without knowing either the city or the language. Some people have had to sleep at the gates of the CETI in tents or similar to shelter from the cold. Sometimes in the CETI they provide food vouchers. The duration of the expulsion depends on the seriousness of the infraction, at the discretion of the directors. The surroundings of the CETI are known for being dangerous and insecure, which is made worse at night because of the lack of adequate lighting.

Omar (Syria, 33 years old):

“There was a fight with Moroccans and Algerians and they made me sleep outside for two days. Outside they rob everything that we have: money, everything. They have punished more people in the same way”.

Ali (Syria, 23 years old):

“The CETI is a bad place, like a prison. Two friends hit a security guard. I wasn't involved in the fight. But they took my phone off me and threw me out of the CETI for a month. I rented a house for a month. Because of this I can't leave and even worse I'm left without a phone. I've asked the security for the phone back and they don't answer. I'm not bothered about the phone, but what's on it. I escaped from Syria and I found this”.

Examples of disproportionate sanctions without procedure, especially taking into account the vulnerability of the people involved. It is understandable to sanction inappropriate conduct where necessary, but the lack of classification and procedure for sanctions is unacceptable.

MEDICAL AND PSYCHOLOGICAL ATTENTION

In the CETI there is a Red Cross nursing facility, equipped with a doctor (not from the Red Cross), two social workers, two administrative assistants, two nurses (per shift), two translators and a volunteer. It works like a primary health care centre continuously from 07:30 to 22:00.

The CETI medical staff, such as the director and deputy director, manage an information system (SIRIA in Spanish) to which they add the details of every resident, and to which the staff of MEYSS and the mainland NGOs in charge of refugees and migrants' reception have access. But employees of the Migrant Detention Centres and Ministry of Interior can't access these details in the case of people who are moved to one of these centres to be deported.

The medical service states that residents, before being moved to the mainland, are given their medical history in a sealed envelope, indicating they must hand it over in the centre on the mainland to which they are transferred.

It lacks paediatric services despite the high numbers of children that live in the CETI (1/3 of residents). They are discharged to the Melilla Regional Hospital.

It is unknown whether the most serious cases are diagnosed and treated, or if those with serious diseases are transferred to the mainland. In theory, residents can go to the Regional Hospital in the case of serious or specific disease, with the authorization of the nursery, which only provide it for emergencies or high fever (39°) and with a voucher of ten euros for their transfer to the Hospital.

A Family of Palestinians from Syria, whose two-year-old son had a brain tumour. This family were very worried about the health of their child because of their departure since they believed his illness could only be treated in Germany.

Father:

"We've gone to the doctor of the CETI, we've explained the case to them and taken them the report and the radiographies carried out months ago in Algeria. We've told him the situation is serious, but they didn't seem bothered... He requires continuing medication but these medicines change depending on the condition of every patient, and they can't be given out without analysing every specific case".

Mother:

"We asked them to conduct tests on him; I'm even scared to move him".

Mother:

"We've gone many times to the doctor of the CETI but we stand outside waiting for hours and they tell us we have to wait, although the boy's situation is serious".

Father:

"One day his temperature went up to 41 degrees... they left us waiting outside, there's no medicines, here there are difficult and serious cases but nobody attends to them. I understand they are under a lot of pressure, there are a lot of people waiting and there's a lot of tension".

There is a Red Cross psychologist who only recently got an interpreter. The most common psychological problems are anxiety and stress, also the worry of knowing when they will leave Melilla. It is unknown if there are specific psychological attention programs for more serious cases or for children.



EDUCATION

ACCEM is in charge of basic Spanish language and culture classes. Melilla Acoge organizes some education workshops inside and outside the CETI, such as leisure and free time workshops. Spanish classes are compulsory. However, many residents can't attend classes because of a lack of places and they remain on the waiting list. As such, the day to day life in the CETI passes without anything to do.

Saleh (Syria, 30 years old):

"There's nothing to do during the day, sometimes we play ball. There's a school for children and some classes for adults, for example IT classes, but there's too many people and there aren't classes for many people".

The classes are aimed at Syrians (everything is translated to Arabic), which demotivates people from other nationalities.

Salam (Bangladesh, 28 years old):

"I've been to classes, but the teacher doesn't speak English and he can't explain things to me. My biggest problem in the CETI is that I can't find anyone who speaks English. Everybody speaks Arabic and I can't talk to anybody".

Abou (Guinea) refers to another problem:

"As new people are constantly arriving; we have to keep starting from zero".

Neither is there a specific education program for children: only a nursery and Spanish classes. They are not integrated into the public education system because it is assumed that they will only stay in Melilla temporarily. Nevertheless, many children have spent nearly a whole school year in the CETI: between 6 and 8 months. If we take into account the time of transit and the length of stay in Melilla, the time that these children remain without schooling is highly prolonged. On the 9th October 2015 the Ombudsman recommended to the Ministry of Education that a specific education program for child residents of the CETI be designed, taking into account that the majority of them have fled the war in Syria.

HOUSING CONDITIONS

The CETI has been overcrowded during long periods of time. Designed to house 480 residents, on occasions it has managed to house 1,487 (13th October 2015) or 933 (22th December 2015). Many times people have to share beds (triple bunk beds). Also, during a time, military style tents were provided (known as “khaimas”) in which people slept in triple bunk beds: for adults it is difficult to climb to the top and the children fall down. Hence many people sleep on the cold floor, which in the case of the “khaimas”, get soaked every time it rains. At the end of December 2015 an extension was completed, and as such they don't use tents anymore.

In the beginning, the CETI was designed to only house men, owing to the migratory pattern of the time. Currently, with the increased flow of Syrian refugees, migration is composed by families, and a third part are children (many of them small children). But the structure of the CETI hasn't changed. As such, families are separated to sleep, on one side women and children and on the other side men. This does nothing more than increase the suffering and is the source of cohabiting problems. Likewise, the facilities aren't the most appropriate for children. On 14th October 2015 519 children resided there, 290 on 22nd December 2015. Many children have to share a bed with their mother and siblings.

All this, together with the lack of schooling, inevitably impacts on the future of the children. Neither is the CETI the most suitable environment to educate some children, and the parents don't have the possibility to educate them according to their customs, beliefs, etc.

Ahmed (Syria, 31 years old), father of a two-year-old girl:

“I don't care about the CETI, but for my daughter it's really hard, very bad place. There are many good people who try to help, but others don't. There's no heating and now in winter it's very cold for the children. Every day at 7pm I leave my wife and daughter in the bedroom and I tell them not to leave until I return. My daughter is always ill. I'm not criticising the situation in the CETI: I'm only saying that it is NOT a suitable place for children. They have told me that the school is only for very small children and in the street you can't educate a child, they only learn to spit and such things. The Spanish class-

es aren't sufficient, one hour a day. I want to educate my daughter here but it's not possible. Now my mother and I are teaching her the numbers, it's the only thing we can do at the moment. In Syria I used to live better than here".

It is also not a suitable environment for new-borns. Apparently there is only one bathroom with hot water, which is insufficient given the overcrowded situation, even if there are turns for children to wash themselves first (turns that are rarely respected). In theory special materials are provided for the recently born, such as cradles and nappies, but many residents state that they don't manage to see this equipment for babies.

Fuad (Syria, 25 years old), his son born in Melilla:

"My wife shares a bedroom with three other people. She has a bed for herself and the baby. They don't provide either food or anything for babies, we buy it outside the centre but we've run out of money, we spent a long time travelling. I sleep in a large bedroom with bunk beds. There are a lot of people in the CETI. For many of them they don't have any money left. The CETI is dirty. And there's a lot of noise. All this makes it harder to stand it and worse if you have a baby. There's no paediatrician, they give us vouchers to go to the hospital if anything happens to the baby, for example I had to go two days ago because the baby caught a fever. Neither is there treatment or check-ups for the mothers that have just given birth. When giving birth, my wife spent one day in hospital and then they told her to go back to the CETI".

The centre lacks adequate places for worship, despite the demand from residents, who have created a place for prayer under a porch.



Cohabiting in the centre is difficult between people of diverse nationalities and customs, with nothing to do, no information, overcrowded and anxious to leave as soon as possible and be transferred to the mainland. They also state that there is a certain lack of security within the CETI: personal belongings disappear and on many occasions there are fights. And many residents claim to have been set on in the immediacy of the CETI.

Amadou (Mauritania, 22 years old)

“If you have anything they rob you [he talks of being robbed for his trousers]. There are many of us in the bedroom, I haven’t counted them. There are three in a bed, without mattresses. There are cockroaches. People come in with food... I go to the activities of the CETI, such as the basketball game. There aren’t many activities outside, but I try to get out... The CETI is like a big prison”.

However, it should be said that for people of Sub-Saharan origin, the journey via Morocco is so traumatic and squalid that they rarely complain about the CETI.

Husman (Guinea, 24 years old):

“In the CETI, I’m fine, especially after Morocco. I’m well housed, I sleep in a bedroom, free, there are showers, I wash myself, they give me clothes, when I’m ill they treat me. There isn’t a reason to be ungrateful, you have to be thankful. But for example, the shower is very dirty, very, very, dirty, you can catch diseases. The problem here is not knowing when you’re going to leave. The people here aren’t bad people, they haven’t done anything bad. There are people who say the CETI isn’t good, and they’re right, but they’ve forgotten everything happened before, but I still haven’t forgotten.”.

Cisse (Ivory Coast, 20 years old), spent five months in the forests of Nador:

“The CETI is good, of course better than the forests”.

5.2_DIFFICULTIES TO ACCESS INFORMATION AND LEGAL ORIENTATION

The lack of understandable information, both general and regarding their specific situation, is a widely-shared complaint among CETI residents. This has resulted in a loss of confidence in both the Administration and the Spanish authorities as well as the circulation of rumours and a paradoxically greater confidence in the traffickers.

Taking into account the volume of residents (reaching nearly 2,000 people at some stages during 2015) and the CETI staff’s limited working hours, it is clear that in Melilla it is not possible to guarantee the right to information or legal orientation of asylum seekers and migrants.

Any resident of the CETI, whether asylum seeker, refugee or immigrant in an irregular situation, may request information about their records or other matters of interest from the deputy director, other officials or lawyers, depending on the concern. Every day long queues are formed and there is not enough time to meet all the people with an appointment. Each lawyer has a translator, but there is only one for the administration staff (mediators, psychologist, director and deputy director, etc.). Sometimes they are referred to the police station, where there are also long queues and they are not always assisted (there are ten people working in the Spanish and Foreigners Documentation Unit - UDEYE).

Until September 2015, the CETI only had one lawyer from CEAR for all the residents. Now there are two, but they only serve asylum applications. When asked about moving to the Peninsula, they explain that it is not in their hands, it is decided in Madrid. The CETI has no legal guidance service from the Melilla Bar of Lawyers. This would be a good way of helping people who cannot solve their legal issues, since CEAR is only responsible for asylum and many of the residents have a different administrative situation (irregular migrants, for example) and multiple legal issues to be resolved that are unrelated to asylum.

CEAR offers a weekly collective talk on asylum. The UNHCR organises another talk on asylum and a member of the UNHCR individually attends people from the CETI. The NGO Melilla Acoge has a legal guidance service outside the CETI.

The lack of information is worse for migrants in an irregular situation, especially people from sub-Saharan Africa. After a time in the CETI, they are called to the police station, where they sign their return/expulsion proposal and the resolution. A very large number of sub-Saharan people state that nobody explains what they are signing or the actions that these forms result in. They do not know what they are signing. Many of these people think that they are leaving Melilla with a criminal record. Unfortunately, they leave believing that they have no rights.

In the words of several sub-Saharan people:

“That is how it is and how it will be, it has to be like that because we are illegal immigrants. We have no rights here”.

5.3 LEGAL ASSISTANCE

In the asylum procedure, legal assistance must be active and the lawyer has to intervene throughout the interview by supporting the asylum seeker's application. In order to do this, they should have previously interviewed the person. However, many asylum seekers say that their lawyer did not speak at all during the interview.

In cases of administrative irregularity, it is not clear what legal aid they receive; many have no real contact with their lawyer to explain their particular situation.

It is also not clear whether they have an interpreter. It is probably an automatic system, in which an explanation about what is happening is given to groups.

Lawyers often appeal the resolutions of return or expulsion. The allegations that are presented do not relate to the aggrieved person, they do not usually talk to them or prepare their case well. On many occasions, it is possible to see mistakes in the data contained in the appeals like the name or the date, which denotes the use of standard forms. These appeals are always dismissed; they then appeal to the contentious-administrative jurisdiction. The State Attorney usually asks to view and holds foreigners' trials even though the immigrants are no longer in Melilla.

Each trial has a duration of approximately five minutes. Sometimes, not even the lawyer attends the trial. The appeals are never considered in the contentious-administrative jurisdiction, which makes the lawyers automatically appeal before the Superior Court of Justice (TSJ) of Andalusia. None of the people whose resolutions are appealed are aware that this happens and that it takes place once they have already left Melilla.

5.4_SUPPORT ORGANISATIONS

Organisations operating in the CETI include: Red Cross (health care, leisure and free time), ACCEM (training), Melilla Acoge (workshops) and CEAR (legal assistance). The UNHCR and Pro Children's Rights (PRODEIN) operate outside of the CETI.

The Spanish Committee of the UNHCR works in the field in Melilla. It aims to provide support to the Spanish authorities to identify, refer and protect all people in need of refuge, and is in continuous contact with these people. It contacts people responsible for the access, identification and reception of asylum seekers (including duty lawyers) and is in contact with the refugees themselves. It organises a weekly briefing at the CETI on the body itself and on the European and Spanish asylum systems.

Since the UNHCR arrived in Melilla there have been many improvements in the care of refugees at the border, the most significant being the opening of a border Asylum Office and the subsequent increase in requests for international protection.

The NGO Pro Children's Rights (PRODEIN) has been drawing attention to the situation of immigrant children in Melilla since 1999. In recent years it has also been denouncing irregularities experienced by the migrant and refugee population that is in transit in the city of Melilla. It is the only local organisation that denounces, regularly and publicly, violations of migrants' rights in Melilla. This allows it to undertake important advocacy work outside Melilla, both nationally and internationally.

5.5_UNACCOMPANIED MINORS “IN TRANSIT”



The situation of unaccompanied foreign minors (MENA) in Melilla has been known for many years. There are three reception centres for minors. The first, run by a religious order, is only for girls. The second, called “La Gota de Leche”, has eighty places. The third, and most controversial, is known as the “La Purisima” centre, with a capacity for 168 children, but it is always overcrowded (last data collected: 280 children). For this reason, it is very common to see many unaccompanied children on the streets of Melilla, mostly of Moroccan origin. They escape from this centre and try to reach the Peninsula by stowing away on ships.

“La Purisima” has five sectors. In the most controversial (the reception centre) the centre’s facilities are within a fort, which is guarded. There are not enough staff to take care of all the children (for example, it only has one psychologist and one social worker) and many children often have to share a bed. Living in such close quarters causes many problems. From age sixteen, minors are not required to go to school, so the centre tries to find vocational training modules for the children. As there are insufficient resources in the city, many have nothing to do during the day.

In November 2015, “La Purisima” housed four unaccompanied Syrian children and ten sub-Saharan African children. The centre does not meet the conditions for children’s reception centres established by Spanish and EU regulations. But, as their guardianship is the responsibility of the autonomous community, it seems they will have to stay in Melilla until they reach the age of majority.

As for the sub-Saharan children, they had a strong desire to study, but this was not offered due to a lack of resources.

Karim (Guinea, 16 years old):

“I’ve been here four months and they have not yet given me the opportunity to study anything”.

6 _ TOWARDS THE PENINSULA. THE PEOPLE BEING TRANSFERRED



In the CETI the protocol for leaving and transfer to the Peninsula does not have clear and transparent criteria: discretion gives scope for arbitrary decisions. A transfer list is published every week, with varying numbers. It probably depends on the number of available reception places at any time on the Peninsula.

Some years ago, many people remained stuck for years in the CETI. This was the case of migrants from Bangladesh before they were expelled. Around July 2014, when concerns first started regarding the influx of Syrian refugees who were coming to Europe through Melilla, the average stay in the CETI was seven months. The length of stay has gradually been reducing. Although there is still a lot to improve regarding the issue of transfers.

In principle, it is the Ministry of Interior that decides who is transferred, when and, in the case of migrants, whether to request their admission into an immigration detention centre (CIE) or not. In the case of asylum seekers or migrants who are not going to a CIE it is the responsibility of the Ministry of Employment and Social Security (MEYSS) to manage their arrival on the Peninsula. It seems that the CETI's Administration proposes a list of chosen people based on their medical situation, good behaviour, etc. but the criteria have not been made public.

CETI's residents spend their days on tenterhooks, awaiting the weekly list of transfers. The uncertainty generated by not knowing the exact departure date causes the psychological deterioration of these people: anxiety, the fear they will never leave, speculation about the reasons why some are moved and not others, etc.

The intention is that people in need of specific medical attention leave as soon as possible. Sometimes this is the best solution, but other times they should receive a proper diagnosis in Melilla before being transferred, to ensure appropriate treatment where they are being moved to. There are cases where the transfer is extended without any apparent reason despite medical emergencies requiring a quick transfer. A striking case was that of Rania, a Palestinian woman from the well-known Yarmouk refugee camp (Syria), who had been diagnosed with cancer. Her name appeared on the transfer list one day, but in the end she was prevented from leaving because the results of DNA tests had not arrived, the tests had to be carried out to prove her relationship with her nephew. She had three children already settled in Sweden, and her greatest wish was to join them as soon as possible and receive better treatment than in Melilla. She was unable to lift her spirits. Day after day, her face wore a constant expression of sadness.

Not knowing the date of departure from Melilla sometimes generates serious protests among CETI's residents, such as the hunger strike of January 2016 (in which some strikers had to be admitted to the County Hospital).

In principle, residents can leave Melilla when their files and medical examinations are complete. The asylum seekers at the border usually take an average of one or two months to leave Melilla, after receiving their red card. For asylum seekers in the territory, from the formalisation of their request until their interview also takes about a month or two. This is why it is so important that the appointment for the interview is arranged as soon as possible (CEAR manages the order of appointments with the police from the CETI).

We should not forget the Syrian people who choose not to apply for asylum, preferring "transit" through Spain, they stay longer than those seeking international protection: up to five months.

Omar (Syria, 33 years old):

"Why are there no "obur" (people in transit) on the list of people leaving? I do not understand why I have not left if there are many people who came later than me and they have left. People who had been here three months have left and I've been more than four and I am still here".

Among the Sub-Saharan people, they still believe that it will take much longer for them to leave if they ask for asylum in Melilla. Therefore, many of them, despite being potential beneficiaries of international protection, prefer to wait for their transfer to the Peninsula to exercise their right.

As for the migrants in an irregular situation, it is not known if the signing of transfer orders and resolutions follows a chronological criterion. As most come without documents proving their identity, and they only have their own testimony about their nationality, the police must investigate the veracity of this testimony: a process that drags on, and with it the transfer.

Ludo (Guinea, 19 years old), arrived in Melilla in a patera (boat used to smuggle immigrants) at the beginning of September, and he was not moved to the Peninsula until mid-January:

“The stay in the CETI is good but my only concern is leaving (“salida”). I believe that I am still here because they think I’m from Cameroon and that I lied. I do not understand why all the people from my patera have already left and me and two others from the same day are still here. Nobody tells me anything. And also I see how the Syrians are coming in and leaving after only spending a little time in the CETI, but I do not”.

The Red Cross organises transfers by boat heading to Malaga. The immigrants are not previously notified which city they will go to or the organisation they will go with. On the day of departure, they are given a piece of paper with the name of the NGO that will take care of them. Once in Malaga they are told the name of the Peninsula centre to which they have been assigned: centres for the reception of asylum seekers or that are part of the humanitarian aid programme¹⁷.

This lack of transparency, coupled with the lack of information, results in residents comparing themselves, with many feeling discriminated against in relation to other people of other nationalities (such as occurs with sub-Saharan Africans when they see that the Syrian people tend to leave before they do, despite having spent less time in the CETI) or even between residents of the same nationality. It is clear that the greatest concern of the migrants and refugees, once in Melilla, is their transfer to the Peninsula. All their decisions, no matter how trivial, revolve around this (such as whether to exercise their rights or not). Everyone, regardless of their country of origin, or whether they understand Spanish or not, knows the meaning of the word “salida” (exit).

This lack of transparency around the Centre for Temporary Residence of Immigrants (CETI) and regarding transfers from Melilla to the Peninsula sometimes causes another type of situation that also deserves special mention. It is worth mentioning that people of Moroccan origin cannot enter or reside in the CETI, except if they are asylum seekers. If the application is rejected, they have no right to remain in the CETI simply because they are Moroccan. This meant that last November two women of Moroccan origin, but with children of Syrian nationality (as their respective husbands are of Syrian nationality), had to leave the CETI and sleep on the street. They camped in the vicinity of the Centre, in small tents. The story of one of them is particularly alarming, since her husband remained stuck in Nador without access to Melilla due to a lack of financial resources to pay the mafia/smugglers. What was particularly striking about this

¹⁷ Places are being expanded following the publication of Royal Decree 816/2015 of 11 September regulating the direct award of a grant for the Extraordinary extension of resources for the reception and integration system of applicants and beneficiaries of international protection. The entities benefiting from this grant are: Spanish Red Cross, Spanish Commission for Refugee Aid (CEAR) and Spanish Catholic Commission Association for Migration (ACCCEM) with direct funding from the European Asylum Fund. One of the reasons for this expansion is, specifically, the increase of applicants for international protection who enter Spain through Melilla. It also takes into account the return of protection seekers from other EU member states, under the Dublin Convention. Finally, the expansion responds to the forecast - still awaited - relocation of protection seekers who arrived in other member states of the EU that support a heavy immigration burden.

situation was that in both cases, the women and children had been residing in the CETI for some time until they were expelled without any kind of alternative to the reception centre, with all the drawbacks that this entails¹⁸.

Other situations that may occur are related to those who are not of sub-Saharan African or Syrian origin whose requests for protection are also denied, but who do have a right to remain in the CETI. The problem is that they remain in the centre for an indeterminate time without knowing anything at all about their possible transfer to the Peninsula, even though a contentious-administrative appeal may be on-going in Madrid. This is the case for Ramzi, from Lebanon, who sought asylum at the border (denied) and who remained stuck in Melilla for more than six months. Even though he asked everybody he could, no one gave him an answer about his departure from Melilla. Ramzi was so desperate that he even tried to return to Morocco, but he could not do that either.



Another striking case is that of some people who have been living in the CETI for up to four years. One of them, from Bangladesh, has created a shop in his room. It is not the only shop that exists inside the CETI that has been set up by residents. The establishment of these businesses is strictly prohibited by the “basic rules of coexistence” which reads “*it is forbidden to have retail outlets in the rooms or carry out hairdressing*”. The existence of these points is known by all the CETI staff. It is difficult to understand how some people have come to stay so long in a centre that is characterised by the temporary nature of the stay. It is true that some people have criminal issues outstanding, so they have to stay in Melilla until they are resolved. The most striking case is, without doubt, that of

18 “Several children sleeping in tents opposite the CETI in Melilla” (11/01/2016), El País, available on: http://politica.elpais.com/politica/2016/01/11/actualidad/1452506704_766324.html They were finally readmitted: one after the entry of the husband, the other after the intervention of Amnesty International. “The Melilla CETI readmitted the children and women who camped in front” (12.01.2016), El País, available on: http://politica.elpais.com/politica/2016/01/12/actualidad/1452612673_799780.html [Accessed 07/04/2016].

a Nigerian woman who arrived in Melilla four years ago. She left the CETI to live in a flat with a man, who is also Nigerian, who is in a regular administrative situation. CETI staff ensure that her young child goes to classes at the centre. This woman cooks under the bridge that is near the centre every day, to earn some money. She says she does not want to be moved because she is waiting for her nephews, who are under the City's protection, to reach legal age, but it is not known if her companion is coercing her in some way. In this regard, it should be mentioned that on one occasion the nephews were allowed to live with their aunt and her companion, but asked to return to the minors' shelter.

7 CONCLUSIONS

In conclusion, it is clear that the control of the Spanish Southern Border is carried out jointly with Morocco. The border control practices observed can only be understood within the context of this cooperation agreement with the neighbouring country, regardless of the cost involved for migrant and refugee Human Rights. It is precisely because of this important role that Morocco plays that it has been possible to achieve, after many years of collaboration, a reduction in the inflow into Spain, forcing these people to change the natural route that should be followed for more dangerous routes where they are in danger of losing their lives.

The situation of the sub-Saharan people is therefore extremely worrying as they encounter a completely closed border, without even having the opportunity to access the Spanish Asylum Office. The utterly demeaning situation faced in Nador, only 20 minutes from Spain and Europe, cannot be understood or normalized. Special attention should be made on the trafficked women who, despite surviving in an unending living hell, are also unable to access these offices.

It is also extremely worrying that the Syrian families with very young children who are fleeing from armed conflict are forced to cross this way, one by one, as the family may become separated in Melilla. How is it possible that, knowing everything that happens around the border, once arrived to Melilla a child can be separated from its parents even if parentage is legally proven? Undoubtedly, this is one of the biggest violations of the best interests of the child, besides being one of the most traumatic experiences that the family members are forced to live through.

It is unacceptable that all these people are forced to pay such large sums of money, and even more so considering that many are in need of international protection. The business that has been created around the border as a result of migration cannot be normalised as it is entirely avoidable, provided there is a real willingness to seek effective solutions.

As for the CETI itself, it is difficult to understand how 17 years after its opening there are still no rules regulating the stay of its residents. Six years after the

Asylum Law entered into force, a reception regulation has still not been developed. The absence of a system for transferral to the Peninsula is especially serious. The lack of information on transfer is what most undermines the psychological state of its residents. The right to information is contained in Spanish and European regulations. The fact that many decisions are made only in relation to leaving Melilla (such as, for example, whether to seek asylum or not) demonstrates how worrying the situation is. Moreover, neither the CETI nor Melilla's children's centres comply with EU and national asylum seeker legislation. Clear discrimination occurs in comparison to people who are in the same situation on the Peninsula. Melilla does not have adequate resources to deal with all these people.

Nevertheless, no matter how miserable the living conditions in Nador, despite the ill-treatment all these people suffer and regardless of how long they will have to stay in Melilla, their willingness to cross into Europe is much stronger than all the barriers that can be put in their way. As long as there are reasons to migrate or flee, migrants and refugees will continue arriving, regardless of the obstacles. Worse still, they will continue to be cheated by networks involved in the smuggling or trafficking of human beings, due to the absence of legal channels for crossing. This business will continue to grow at the expense of the most vulnerable. Today, we can say that migration control is a higher priority than people's dignity, leaving hundreds and hundreds of unprotected migrants and refugees at the border¹⁹.

19 These findings correspond with those the JRS publishes through other channels, such as the *Annual Report on Migration and Integration CeiMigra 2015. Overcoming Borders*, accessible online 12/04/2016 on <http://www.socialjesuitas.es/documentos/download/12-informes-anales/103-informe-anual-2015>

This is echoed by the El Faro Digital newspaper in its Melilla edition, 12/04/2016:

<http://elfarodigital.es/melilla/sociedad/183917-los-refugiados-acogidos-en-centros-con-plazas-para-inmigrantes-irregulares.html#>

8_RECOMMENDATIONS

As a result of the above, we propose the following recommendations:

- Refugees and others who come to Spain fleeing situations of persecution, poverty or war that have caused terrible suffering should be received with dignity and respect to their rights.
- Repeal the amendment to the Aliens Law adopted on 12th March 2015, which establishes a special border regime for Ceuta and Melilla by introducing the concept of “border rejection”.
- Open channels in the Spanish Consulate in Nador to enable applications for humanitarian or exceptional reasons visas.
- Review the nature and operation of the CETI to transform them into sites for rapid identification and transfer -in days- to the mainland. In this regard, establish clear and transparent criteria for the determination of which people can be moved.
- Develop regulations for the CETI, paying particular attention to obligations regarding reception, which is regulated in the Directive on reception conditions. In particular, clearly regulate a system of offences and penalties, giving the person concerned a hearing, legal assistance and the chance to appeal.
- Respect the right to family unity within the CETI, by not separating families who have crossed the border separately but can prove their relationship by passport or family record book. Do not carry out DNA testing on minors who arrive in this situation.
- Ensure that each migrant and refugee receives individualised information about their administrative file and the rights and duties they have. Additionally, ensure active legal assistance in the various procedures.
- Accept and implement the recommendation of 22 February 2016 from the Ombudsman to the General Secretariat of Immigration and Emigration of the Ministry of Employment and Social Security regarding *specific attention for unaccompanied foreign minors, persons seeking international protection, in Melilla*, to implement, in coordination with the autonomous communities, and supported by the UNHCR, projects for the integration of unaccompanied children in need of international protection found in the cities of Ceuta and Melilla, which allow for the transfer of these children to the peninsula.
- Identify special needs among newly-arrived victims of trafficking, trauma or torture; creating specific programmes of psychological care, education or other appropriate measures.

- Establish special measures of protection and reception to meet the specific needs of women and children, including measures to prevent and respond to sexual and gender-based violence (before and during the journey as well as on arrival).
- Address the causes of conflict, violence and displacement such as poverty, inequality, injustice, corruption in the arms trade, competition for natural resources and climate change, in order to reverse the growing exodus of men, women and children seeking protection and safety.



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